

## **CHAPTER 82-05-02**

### **FORMS OF BENEFIT PAYMENTS**

#### Section

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**82-05-02-01. Standard form of benefit payments.** The standard form of benefit payments under article 82-05 is an annuity payable for the life of the teacher with no survivor annuity.

**History:** Effective September 1, 1990.

**General Authority:** NDCC 15-39.1-07

**Law Implemented:** NDCC 15-39.1-10

#### **82-05-02-02. Optional forms of benefit payments.**

1. A teacher may elect to receive benefits under article 82-05 in any one of the following forms:
  - a. A one hundred percent joint and survivor annuity.
  - b. A fifty percent joint and survivor annuity.
  - c. An annuity payable to the teacher or the teacher's designated beneficiary for the life of the teacher or two hundred forty months, whichever is longer.
  - d. An annuity payable to the teacher or the teacher's designated beneficiary for the life of the teacher or one hundred twenty months, whichever is longer.
2. A married member's spouse, if designated as beneficiary, must consent in writing to the form of payment option elected by the member at retirement. If spousal consent is not obtained, the form of benefit payment option will be the fifty percent joint and survivor option.
3. Benefits under the optional forms of payment must be determined on an actuarially equivalent basis. The teacher's choice of benefit under this section is irrevocable once the teacher has begun receiving benefits except under the following circumstances:
  - a. Under the single life, five-year term certain and life (option no longer available to new retirees), twenty-year term certain and life, and ten-year term certain and life annuity options, if a retired teacher marries, that teacher may change that teacher's beneficiary under

section 82-05-01-03 and form of benefit payment to a joint and survivor option.

- b. Under the one hundred percent joint and survivor and fifty percent joint and survivor annuity options, if a retired teacher's designated beneficiary precedes the teacher in death, or if the marriage of a teacher and the designated beneficiary is dissolved and the divorce decree provides for sole retention of the retirement benefits by the teacher, the form of benefits shall automatically revert to the standard form of benefit payment under section 82-05-02-01 and a new beneficiary may be designated under section 82-05-01-03. The teacher, upon remarriage, may designate the new spouse as the primary beneficiary and may elect a joint and survivor option.
4. The teacher must provide proof of the teacher's good health before the board can permit a change in the designated beneficiary under the joint and survivor options. A medical examination conducted by a licensed medical doctor is required.
5. The teacher is required to provide proof of age for the new beneficiary. The board must adjust the monthly retirement benefit to the actuarially equivalent amount based on the new designated beneficiary's age.

**History:** Effective September 1, 1990; amended effective April 1, 1994; May 1, 2000; May 1, 2002; May 1, 2004.

**General Authority:** NDCC 15-39.1-07

**Law Implemented:** NDCC 15-39.1-16

**82-05-02-03. Level income option.** A teacher who retires prior to social security normal retirement age may elect the level income option. This choice of benefit option is irrevocable once the teacher has begun receiving benefits. Under the level income option, the teacher's monthly benefit is adjusted so that the combined benefits received from the fund and social security remain level before, and after, the date social security benefits begin. The adjusted benefit payable from the fund must be determined on an actuarial equivalent basis. A teacher is not eligible for the level income option if the reduced level income benefit is less than two hundred dollars per month.

**History:** Effective September 1, 1990; amended effective May 1, 2000.

**General Authority:** NDCC 15-39.1-07

**Law Implemented:** NDCC 15-39.1-16

**82-05-02-04. Retroactive retirement eligibility.** Upon application, a teacher is entitled to receive benefits retroactive to the date of initial eligibility in

accordance with the benefit option selected. Teachers may not collect interest on retroactive back benefits.

**History:** Effective September 1, 1990; amended effective April 1, 1994.

**General Authority:** NDCC 15-39.1-07

**Law Implemented:** NDCC 15-39.1-10, 15-39.1-16

**82-05-02-05. Partial lump sum distribution option.** A member who is eligible for an unreduced service retirement annuity may receive a portion of the retirement annuity paid in a lump sum distribution as provided in North Dakota Century Code section 15-39.1-16. The lump sum distribution may be paid in a direct rollover as outlined in North Dakota Century Code section 15-39.1-20.

**History:** Effective May 1, 2004.

**General Authority:** NDCC 15-39.1-07

**Law Implemented:** NDCC 15-39.1-16